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Office of the Secretary

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Chairman Mitchell, FCC Board  
USC, Dickson Center  
October, 3, 2006

**I will not give up my freedom without a fight.**

Former FCC Chairman Michael Powell attempted to send two official FCC Reports on the condition of our Mass Media's independence straight down Orwell's memory hole. Fortunately a courageous FCC staffer sent them to Senator Barbara Boxer. Whatever could have driven Chairman Powell to this act? I believe the fact that the reports definitely show declining minority and female ownership of radio/TV stations and newspapers as well as shrinking coverage of local news by over 30 hours per year sharply contradicted his opinions regarding the supposed happy effects of the control of the news available to the American public by the half-dozen corporations that currently dominate the field.

In Los Angeles both the LA Times, the only newspaper of significant impact, and ~~KCAL-TV, Channel 5~~ <sup>KTLA</sup> have both been swallowed up by the gigantic Tribune Company, out of Chicago. Not even my own massive city of Los Angeles has escaped the jaws of conglomeration. I protest the ownership of the single major print media along with a local TV station! This is a dangerous concentration of power in a single pair of corporate hands.

Such ownership concentration has produced a deforming force of media-mind control that must be measured by the fact that, incredibly, over half of all Americans continue to believe that Weapons of Mass Destruction, Chemical, Biological, and even Nuclear were actually discovered in Iraq by our ground forces. I protest this smothering force of monopoly on my news sources!

Stuart M. Chandler::October 3, 2006



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**Written Testimony of Frank Wright, Ph.D.  
President & CEO, National Religious Broadcasters (NRB)**

**Submitted to the Federal Communications Commission  
As Part of Public Hearings Held in El Segundo, California**

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**October 3, 2006**

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My name is Frank Wright, and I serve as president and chief executive officer of the National Religious Broadcasters (NRB), the largest association of Christian broadcasters and programmers in the world. My written testimony is supplied on behalf of the more than 1400 member organizations comprising the NRB to encourage the Federal Communications Commission to responsibly limit the concentration of ownership of media entities.

*NRB believes that responsibly limiting media ownership is the best public policy for three reasons: 1) ensuring media access; 2) positively impacting programming content; and 3) preserving local control.*

## **OVERVIEW**

On June 2, 2003, the Federal Communications Commission (FCC) issued new "Broadcast Ownership Rules" related to media concentration. Among other things, these new regulations included a change in the national television ownership limit.

Prior to this rule change, no single entity could own television stations that reached more than a 35% share of U.S. (television) households. The FCC determined that 35% was too low, and raised this media ownership cap to 45%. Something of a firestorm ensued.

Citizen groups and broadcasters around the nation jumped into the fray. While a variety of issues were at stake, NRB opposed raising the cap to 45% for two reasons: content and local control. If fewer broadcasters have more power, content will diminish at a higher rate. That will, in turn, force local affiliates to ignore the wishes of their local audience in order to keep pace with the more powerful networks.

It seemed that everyone in Washington weighed-in on the FCC rule. The White House supported the change to 45%. Meanwhile, the U.S. 3<sup>rd</sup> Circuit Court of Appeals issued an emergency order that temporarily blocked the rule from taking effect.

Congress was not to be outdone. Members of Congress who opposed the change to 45% pursued three distinct legislative strategies in an effort to remand the cap to the previous 35%. Ultimately, one of those strategies proved successful. Through political wheeling and dealing,

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Congress used a spending bill to request the FCC change the media ownership cap to 39%. That bill was signed into law on January 23, 2004.

## BACKGROUND

Change has been a byword in American history. Perhaps nowhere has this change been more apparent than in the realm of what we now call technology. Even 20 years ago, few people could have envisioned a nation where most homes are linked via computers to the Internet and practically every American has a cell phone, seemingly stuck to their ears. Media technologies have developed beyond people's wildest dreams, and the best is probably yet to come.

In such an environment, government regulations are viewed sometimes as an outdated dinosaur that needs to be reconfigured. The challenge is to maintain regulations that serve an appropriate purpose, while not impinging upon free speech as our Founders intended it, or stifling the creativity of future generations. Such is the duty that has been given to the Federal Communications Commission (FCC).

An example of that responsibility is the *Telecommunications Act of 1996* (PL 104-104), which determined that the FCC must review its media ownership rules every two years. This was mandated to ensure that the government regulations keep pace with the realities of competition in the industry, an attempt to keep the government current. In 2001, the FCC began a 20-month review that included a public record of more than 520,000 comments.<sup>1</sup> On June 2, 2003, it released the results of its review.

## THE FCC CHANGES THE PLAYING FIELD

The FCC referred to its new rule as the "Broadcast Ownership Rules" or the "FCC Limits on Media Concentration." Popularly, the issues surrounding the rule came to be known as "media ownership."

The June 2<sup>nd</sup> FCC ruling on media ownership, which passed by a vote of 3-2, was extensive. For example, the Commission retained the ban on mergers among any of the top four national broadcast networks.<sup>2</sup> It changed the rules that determined how many television stations could be owned by one individual or corporation in certain markets.<sup>3</sup> The Commission also changed the "broadcast-newspaper" and "radio-television" cross-ownership rules to allow the same entity to own a television station and a newspaper, with certain restrictions. And the FCC rule changed the national television ownership limit. This was the provision that garnered the most attention, and the provision with which NRB has been most concerned.<sup>4</sup>

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<sup>1</sup> FCC News Release, *FCC Sets Limits On Media Concentration*, 2 June 2003, p. 1.

<sup>2</sup> This ban was originally adopted in 1946. Ibid, p. 2.

<sup>3</sup> This portion of the rule was originally adopted in 1964. Ibid.

<sup>4</sup> There were many other media issues covered by the June 2, 2003, FCC ruling. This paper presents only a small sampling of those issues.

Prior to June 2, 2003, no single entity could own television stations that reached more than a 35% share of U.S. (television) households.<sup>5</sup> Then, as part of its most recent review of rules, the FCC *determined that 35% was too low and raised this media ownership cap to 45%.*

Members of Congress, broadcasters around the nation, and citizen groups jumped into the fray. One side claimed that the FCC was pandering to media interests who already owned stations that gave them more than a 35% share, and would have to divest resources if the cap were not increased. Others claimed that the FCC was opening the door to media consolidation and that true broadcasting freedom would soon end. Still others claimed that the 35% cap was a repressive regulation and the limit needed to be raised in order for the free market to work properly. So, who was right?

## **NRB'S PERSPECTIVE**

As with many issues, there are kernels of truth on all sides. NRB is committed to free-market principles and to the economic policies that allow competition. Yet, sometimes in public policy decisions one encounters an abundance of important principles that must be weighed; then a single standard must be chosen above the rest. This is such a situation.

**NRB believes that responsibly limiting media ownership is the best public policy position for three reasons: 1) ensuring media access; 2) positively impacting programming content; and 3) preserving local control.**

### ***Access***

The increase of media concentration brings with it unintended consequences. One significant consequence is a reduction in access to electronic media that ultimately stifles both diversity and competition. This flows from the simple logic that fewer media entities represent fewer potential outlets for programming, and more programming content decisions are being made by a select few.

### ***Content***

It is no secret that the content of television programs has been rapidly deteriorating. Our culture seems to be decaying, in many ways, from the bottom up. Children around the nation are exposed to a litany of things that, at best, compete for their time or attention and, at worst, corrode their minds and harden their souls. Television is primary among them. The statistics revealing the vast amounts of time that children spend watching television are widely known.

Sadly, these high levels of media consumption make children vulnerable to programming that is violent, profane and often morally questionable. To add insult to injury, certain networks have a reputation for always being on the cutting edge of degradation, with explicit and excessive violence, graphic sexual content, and abundant profanity as normal programming fare. If such a

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<sup>5</sup> According to the FCC, the "share of U.S. TV households is calculated by adding the number of TV households in each market where the company owns a station. Regardless of the station's ratings, it is counted for all of the potential viewers in the markets. Therefore a 45% share of U.S. TV households is not equal to a 45% share of TV stations in the U.S." News Release, *FCC Sets Limits On Media Concentration*, 2 June 2003, p. 5.

network is able to own substantially larger percentages of stations, content will continue its downward spiral at a faster rate.

As religious programmers and broadcasters who are primarily concerned with spreading the Gospel of Jesus Christ, NRB members have a vested interest in promoting clean programming. Yet, one of the saddest facts of the media consolidation we have seen thus far is that the media entities that are the most consistent violators of federal indecency standards are those with the largest media platforms. Thus the media concentration issue is inevitably linked to adverse effects on programming content.

### ***Local Control***

Content, in turn, is closely linked with the principle of local control. When a local broadcaster sees a program from its affiliated parent network and believes that program is inappropriate for his viewers, the broadcaster should, in theory, be able to refuse that particular program. To date, there are still some courageous local broadcasters who pre-empt programs with a high vulgarity quotient. However, if the media ownership cap continues to rise, fewer and fewer broadcasters can literally afford to make decisions that are in the best interest of their local areas. If they want to survive, they have to go along with the wishes of the behemoth network. That not only would violate the important principle of local control, but also would ultimately diminish competition and diversity in programming – an ironic twist of events that would violate the very “free-market” reasoning that led the FCC to increase the media ownership cap to 45%.

## **CONGRESS ENTERS THE FRAY**

So how has this issue been resolved? The White House supported the FCC Rule keeping the cap at 45%. Yet in a surprising move, the U.S. 3<sup>rd</sup> Circuit Court of Appeals issued an emergency order on September 3, 2003 (later made permanent), blocking the entire media ownership rule from taking effect. Congress, also expressed strong feelings about the FCC Rule change. Some hailed the higher limits as a symbol of trust in market forces, but those Members of Congress who wanted to keep the cap at 35% pursued three concurrent legislative strategies to stop it.

### **Strategy #1: Express Disapproval for the Entire FCC Rule Change**

Senator Byron Dorgan (D-ND) introduced S.J.Res. 17, a Senate Resolution “disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.”<sup>6</sup> This resolution was originally cosponsored by Republican Senators Lott (MS), Collins (ME), Snowe (ME) and Hutchison (TX), and Democratic Senators Hollings (SC), Feingold (WI), Kerry (MA) and Wyden (OR); an eclectic mix of personalities and politics, to say the least. The resolution simply stated that the FCC rule related to broadcast media ownership should have “no force or effect.”<sup>7</sup>

Senate Resolution 17 was introduced on July 15, 2003, and was immediately sent to the committee that would have oversight over FCC issues – the Senate Committee on Commerce, Science and Transportation. Such resolutions often die a quiet death in committee, but this one

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<sup>6</sup> S.J.Res.17, 15 July 2003, United States Senate, 108<sup>th</sup> Congress, First Session.

<sup>7</sup> Ibid.

took on a life of its own. Not only did an additional 14 Senators co-sponsor it, but a “discharge petition” was circulated to boost the resolution out of committee without any hearings or a *committee vote*. *This is a procedural maneuver that is allowed under the terms of the 1996 Congressional Review Act (PL 104-121),*<sup>8</sup> a law that was created to allow Congress to overturn new federal rules.<sup>9</sup> However, it is an extremely rare strategy, particularly because of its potential to alienate committee chairmen and other Members of Congress. Despite its detractors, S.J.Res. 17 garnered 35 signatures from committee members who were willing to “discharge” it from the committee.<sup>10</sup> It was then sent to the Senate Floor where it had to be addressed.

On September 16, 2003, S.J.Res. 17 passed in the full Senate by a vote of 55-40.<sup>11</sup> Legislatively speaking, it was a shocking slap in the face to the FCC – a bold statement that the majority of the Senate opposed the recent FCC rule. And the caveat was that the S.J.Res. 17 did not deal with just a piece of the FCC rule, such as media ownership, but voiced disapproval of the *entire* 256-page ruling. This turn of events indicated to both the House of Representatives and the White House that some compromise would have to be reached.

In the House of Representatives, the same bill was introduced as H.J. Res. 72 by Representative Maurice Hinchey (D-NY). It was co-sponsored by Representatives Sanders (VT) and Markey (MA) and referred to the House Committee on Energy and Commerce where it saw no further action.

#### Strategy #2: Codify the Previous Media Ownership Cap

In a pre-emptive strategy, on May 9, 2003, Representative Richard Burr (R-NC) introduced H.R. 2052, the *Preservation of Localism, Program Diversity and Competition in Television Broadcast Service Act of 2003*. This legislation would, among other things, codify a national ownership cap of 35%. This legislation had 194 co-sponsors.

The Senate version of this legislation, S. 1046, was reportedly the strategy favored by Senate Commerce Committee Chairman McCain (R-AZ). Key sources report that he preferred allowing this legislation to go through the committee process, rather than the discharge petition of S.J.Res. 17. “If the Congress is unsatisfied with the result of the FCC review, it should step in to provide new direction. Simply saying, ‘You got it wrong, try again,’ in my view, is not an appropriate response,” said Senator McCain.<sup>12</sup>

#### Strategy #3: Tie the Media Ownership Cap to Funding

The third legislative strategy was, in many ways, the most creative. Each year, Congress determines how much money will be given to every Executive department, agency, bureau, etc.

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<sup>8</sup> Interview with the Senate Parliamentarian’s office, September 11, 2003.

<sup>9</sup> Andrew Freedman, *Congressional Quarterly Bill Analysis Brief* for S.J.Res. 17.

<sup>10</sup> That is why resolutions of this nature are called a “discharge petition.”

<sup>11</sup> Recorded Vote No. 348, 16 September 2003, United States Senate, 108<sup>th</sup> Congress, First Session.

<sup>12</sup> Andrew Freedman, *Congressional Quarterly Bill Analysis Brief* for S.J.Res. 17.

This is called the “appropriations process.” There are 13 bills that determine all of this spending, and ideally, each bill is passed by the House, then the Senate, and finally signed by the President.

In the fall of 2003, seven of those 13 bills did not make it out of the Senate, for a variety of reasons. One of those was the Commerce/Justice/State/Judiciary (C/J/S/J) Appropriations bill (H.R. 2799), where the FCC is funded. It was passed by the House and had been passed by the Senate Appropriations Committee, but it was never passed by the full Senate, and so was ineligible for Presidential signature.

During both House and Senate committee mark-ups,<sup>13</sup> amendments were added to this bill to reduce the new FCC media ownership cap from 45% to 35%. This was important because, unlike normal pieces of legislation, appropriations bills are considered “must pass” legislative vehicles. In addition, the media ownership cap was the only piece of the FCC media ownership rule change that was successfully addressed in the bill. So Congress was not changing the entire FCC rule – only picking out this one small portion to change.

This was also significant because, when the House and Senate are agreed on a specific line-item, that provision usually stays in the bill. There would be no reason to change it or eliminate it. However, when the C/J/S/J Appropriations bill was not brought to the Senate floor, the decision was made to put or “roll” this bill, along with the other six appropriations bills, into one huge bill that is commonly referred to as “the Omnibus.” This particular Omnibus bill, the Conference Report for H.R. 2673, provided \$820 billion dollars in funding.<sup>14</sup>

There was, however, one very critical change in this large Omnibus bill. The language regarding media ownership was changed, and the bill stated that the cap should be 39% – not 45%, as the FCC wanted, nor 35%, as both Houses of Congress had agreed. Speculation was that the change was a giant concession to the White House, which had worked hard for a compromise between the two positions.

Prior to the Christmas 2003 Congressional recess, the Senate could not come to agreement about the Omnibus. It was put off until late January 2004. It was brought to the Senate floor on January 20, 2004, where the Democrats launched a filibuster. Senate Majority Leader Frist was not able to get the 60 procedural votes he needed to “invoke cloture,”<sup>15</sup> and bring a final floor vote of the Omnibus bill. Everyone held their breath and waited. Two days later, cloture was invoked by a vote of 61-32.<sup>16</sup> Then, when the vote on final passage was taken, 65 Senators voted

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<sup>13</sup>A “mark-up” is when a House or Senate committee meets to debate and make changes to, or “mark up,” a piece of legislation. Mark-up sessions occur before the final committee vote on a bill.

<sup>14</sup>The official title for the Omnibus is the *Consolidated Appropriations for FY 2004*, H.R. 2673.

<sup>15</sup>When thorny issues arise in the Senate, any one Senator can launch a “filibuster” against the piece of legislation in question. A filibuster is a procedural move to keep talking and hold up Senate business so that a vote cannot be taken on the legislation. According to Senate rules, the only way to stop a filibuster is by taking a special vote to stop it. This special vote, called a “cloture vote,” requires 61 votes, not the usual simple majority of 51. When a cloture vote is taken and the matter receives the necessary 61 votes, it is said that “cloture is invoked.” The filibuster is then stopped, and the Senator managing the bill on the Floor can then move to take a vote on final passage.

<sup>16</sup>Recorded Vote No. 2, 22 January 2004, 108<sup>th</sup> Congress, Second Session.

to pass the Omnibus Conference Report with 28 Senators voting against it.<sup>17</sup> It was signed by President Bush on January 23, 2004.

## **CONCLUSION & RECOMMENDATIONS:**

While recognizing the difficulty the Commission faces in determining the appropriate level of media concentration and recognizing that this entails a balancing of interests, NRB strongly encourages the Commission to limit media ownership to the levels approved in the legislation passed by Congress and signed by the President on January 23, 2004.

NRB believes that responsibly limiting media ownership is the best policy, because it provides greater opportunities for media access, thus supporting diversity and the beneficial effects of competition in the media marketplace. Limiting media concentration also allows local broadcasters to maintain a greater measure of control over the programming they deliver to their respective communities. This local control and accountability has the further positive effect of limiting the kind of indecent and offensive programming that has so many American families concerned.

NRB recommends that the FCC consider additional regulations that will render those media entities that are consistent violators of federal indecency standards ineligible to expand their media ownership beyond current levels. This step would send a much-needed message to those programmers and broadcasters who seem to consider their public interest obligations more of an inconvenience than a public duty.

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<sup>17</sup> Recorded Vote No. 3, 22 January 2004, 108<sup>th</sup> Congress, Second Session.



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<sup>17</sup> Recorded Vote No. 3, 22 January 2004, 108<sup>th</sup> Congress, Second Session.

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F.C.C. HEARINGS CONCERNING  
MEDIA CONSOLIDATION

October 3, 2006

Remarks by  
Marshall Herskovitz

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Chairman Martin and the other members of the Commission, welcome to Los Angeles, and thank you for this opportunity to speak about an issue that plays such a large role in our lives as creative members of the entertainment community.

My name is Marshall Herskovitz – I am a producer, writer, and director in television and films, having helped create such series as “thirtysomething” and “My So-Called Life”, and such films as “Legends of the Fall”, “Traffic”, and “The Last Samurai”. I speak to you today in my capacity as president of the Producers Guild of America.

Consolidation of industries is a fact of life in America, and one can argue its merits or dangers to society, but the consolidation of media must be looked at through an entirely different lens, since information is literally the lifeblood of a free society. Without a truly free flow of information, our nation cannot possibly fulfill the terms of the First Amendment to the Constitution.

There is no question in the mind of anyone in our industry that consolidation of media does, and will increasingly, restrict the free flow of information, for the following reasons:

First and foremost, the dissemination of information – and by information I mean the full gamut of communications in our country – is no longer even the primary goal of these corporations. In the old days, each communications entity, be it a newspaper, local television station, movie studio, or network, was owned and operated by people who were passionate about that one thing. Even though most were publicly held corporations, nevertheless there was a demonstrable pride in the fulfillment of a public trust. That pride was evident in the legendary names – and long tenures – from that bygone era: Sarnoff, Paley, Goldenson, and many more.

The purpose of a modern media conglomerate is to serve the bottom line of that conglomerate. There cannot possibly be the pride of a public trust when your company has stakes in literally dozens of different media outlets who have been mandated to cross-promote each other and show steady growth in each quarter. In such circumstances a newspaper or a network cannot be a calling, they can only be an asset, and an expendable asset at that.

The result of this shift in priorities has been a shift in programming, one that is evident to every single creative member of our community. You have other panels that will cover the news divisions, and the danger to our society when a news bureau's mandate is to be

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marketable rather than truthful, but that mindset also affects the entertainment divisions of these corporations.

When I started in this business there were three networks. Each network, blocked by this Commission from owning its own programming, chose from literally dozens of production companies the best programs it could find. These networks saw themselves as broadcasters first of all, as a conduit to the American people for ideas and entertainment, a “department store” if you will, where the consumer could find a broad range of programming. Today, the situation is markedly different. Each network or cable channel, part of a media conglomerate, is charged with asserting its own “brand identity”. Programs that aren’t compatible with that identity are discarded. Each network also is charged with doing business as much as possible with its own corporation’s production company, thus limiting the pool of possible candidates.

I have personally felt the effects of this change. Back in those early days of my career, my affiliation was with a production company that could sell to any network. Now, because every production company is charged with doing business with its own sister network, I must choose a production company and network as one package, owned by the same conglomerate. So the job of that production company, unlike when I started out, is not to find the best network for my project, or the highest license fee, or the most creative autonomy, or even the most advantageous time slot to help my show compete. No, the job of that production company is to place as many shows as possible on its sister network, period. So the production company, which is supposed to be my ally, my protector, my partner, has become instead simply a farm team for its network.

This fundamental structural change has led to a fundamental management change as well. Networks, who used to trust the expertise of independent producers to create shows for them, are now charged by their corporate superiors to micro-manage those shows. Ask any show-runner on any network and they will tell you that the level of control now exerted by network executives – over script, direction, cinematography, costumes, even the color of sets – is unprecedented in the history of the medium. The at-the-time eccentric choices that went into making “thirtysomething” the ground-breaking show it was, would absolutely never be permitted today.

The result of all this is that the independent producer no longer exists in television. Because conglomerates have been permitted to own both networks and production companies, there is no incentive for them to do business with anyone else. Are there any programs at the networks produced outside of their own conglomerates? Yes, but the number declines each year, and each of those programs is made by the production company of another conglomerate. There is no longer even one independent production company, not one, making scripted television programs. Every production company is now a subsidiary of one of the network-owning conglomerates.

The members of my Guild produce programs in television, film, and new media, but they all have one thing in common – they are passionate about what they do. The spirit of initiative, of entrepreneurship, is at the heart of American business, and if you talk to

these producers you will find that spirit, not because they are looking for a way to get rich quick – not that they'd mind – but because they have stories they are dying to tell. When *a person is an entrepreneur, he puts his life into his projects*. When a person is an employee, and an expendable employee at that, that alchemy, that magic blend of passion and vision and courage that is responsible for every great piece of programming, simply cannot happen. Consolidation of media is turning our artists into employees, and make no mistake, the result will be harmful for our society. I'm of the belief that storytellers matter, that art matters, that art helps a society define itself. The consolidation of media inherently endangers the storyteller, because to that conglomerate the story has no inherent value, other than as an asset to be exploited.

The public airwaves are owned by the people, and access to those airwaves is supposed be regulated in such a way as to protect the interests of the people, the broadest range of people in our nation, not just the interests of the officers and stockholders of these corporations. A world where there are no independent producers has inherently abdicated that regulatory responsibility.

For these reasons, today we ask you to limit the power of these conglomerates to control what is seen on America's televisions. We urge you to set aside, at the very least, 25% of prime-time programming, so that it can be created by producers outside the oligarchy of these consolidated companies. This must be done in order to protect the diversity of voices and stories that should be reaching our airwaves.

Thank you very much, and thank you for holding these important hearings.

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Good afternoon. My name is Dorothea Petrie; I'm primarily a producer of movies for television, and I'd like to thank you for allowing me and my colleagues to speak to you today.

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Unlike many people, I can claim some first-hand experience with the Federal Communications Commission on the staff of the Secretary of media monopolies. I grew up in [town, state], at a time when the town newspapers, the radio station, and the entire local media structure was owned and operated by a single family. As you might imagine, that family enforced a consistent view across all of its holdings, in terms of politics, among other things. As a result, it wasn't until I left town to go to college that I even realized that there were other voices and other points of view. It's almost impossible, without having lived through it, to convey that sense of narrowness and constriction, which was all the worse because we weren't aware of it; only by stepping outside of the system could you see how crippling it really was.

Today, I fear that we are moving backwards, not forwards. From the quiz show scandals of the 1950s going forward, we've seen that corporate control over and intrusion into television programming has only served to corrupt the medium and break its faith with the public. I can recall a time when a program could only dedicate three minutes of its airtime to commercials; this commission, the FCC, enforced that rule, and did so with a sense of purpose and justice. But that sense of purpose and justice has gotten away from us, and the victims are the people of this country, who once could have expected to turn on the television and see something unique, something they'd never encountered before.

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Instead, a viewer who turns on the television today will be confronted almost exclusively with programming designed to reach the widest possible audience, the lowest common denominator. Because that kind of mass audience is the only kind that a media conglomerate respects. And so Television is slowly coming to resemble the one-family system that dominated my hometown. Much as Disney, Viacom, Fox and TimeWarner may claim to compete, it's a competition of marketing techniques, not of ideas.

You are the only ones capable of reversing this trend. You are the only ones capable of giving the public a chance to enjoy truly diverse programs. Your mandate is a momentous and important one, and I plead with you to fulfill it to the best of your ability. Don't neglect the public interest; you are the only advocate we have.

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My name is Mario Proenza, I've been an independent producer working in this industry for [XX] years. The job of a producer isn't easy, especially when you're young, just starting out. But the promise of the job is that as you develop your skills and develop your contacts, the job, while still not easy, at least gets easier as time goes on. Unfortunately, that has not proved to be the case in this day and age.

My specialty is Spanish-language programming, and in the early days of my career, the Los Angeles marketplace in this field was thriving. There were several independently owned stations where one could sell programs, such as Channel 34, Channel 52 and Channel 22. Telemundo purchased Channel 52 and Channel 22, and then, of course, NBC purchased Telemundo. This year, Univision, which owns Channel 34, has been put up for sale, though I don't believe a deal has been finalized yet.

But producers like me have already felt the effects of consolidation. More and more, these stations are purchasing programming from their own networks, rather than from anyone with an independent point of view. The "Old Boys Network," which was never really a factor when the stations were competing with each other, has infected the Spanish-language marketplace. Now, most programming doesn't come from across the spectrum of independent producers—it comes from a select circle of in-house producers, who owe their position to the fact that they create programming that reflects a corporate brand and ethos, rather than the audience it's broadcast to.

It's become a closed system, and increasingly, the only way an entrepreneur like myself can make a living is as a producer for hire, accepting fees that get smaller each year to put together programs that you have no investment in, no passion for. It doesn't serve producers, and it certainly doesn't serve the diverse communities who once relied on independent programming to reflect their unique values and needs.

The days when an individual entrepreneur could hope to make a mark in entertainment and control his own destiny are rapidly coming to an end. I can think of no better way to choke off the spirit of entrepreneurship that built this industry—still the source of our nation's most popular exports—than to continue down the path of consolidation that we are presently on.

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My name is Steve Binder. While attending the University of Southern California, one of my elective courses dealt with the history of the FCC. At that time, I never guessed the information that I learned would serve me well to be able to speak to you today. If I took anything away from that class, it was that the broadcast airwaves belonged to us, the citizens of this great country and not to any one individual or corporation and that the FCC was the independent regulator for our public interests. I venture to say that if you asked the American public today, "Who owns television?" you would hear that Viacom owns CBS, Rupert Murdoch owns Fox, General Electric owns NBC/Universal, Disney owns ABC and Warner Brothers and Paramount own the new CW network. All of these networks are corporations, whose primary interest is not the public they serve, but to their stockholders. They are a monopoly that control what we see and hear across the broadcast spectrum.

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This was not the case when I got my first job in Hollywood. The marketplace was flourishing with independent producer/entrepreneurs who not only produced their 'ideas,' but benefited financially by owning their own shows after they aired on the network. The networks were merely the licensees of the product they aired and a highly competitive market of independent producers flourished. Today, I have the privilege of mentoring a lot of young, future generation producers with great 'ideas' who are turning away from an industry they would love to be a part of. They tell me that the best they can hope for is a hard-to-get job as a producer-for-hire, working on a project they're not allowed to own.

Since 1981, many old regulations have been repealed including the fairness doctrine, and as a result, we have entertainment monopolies controlling our public airwaves. The result....fewer independent voices in the marketplace. Unless you commissioners take responsibility for the powers that Congress has empowered you with, the public's interest and the independent producers who

work in this industry are in grave danger and we need you to act on  
our behalf.

06-121

**From:** Mark S. Reed, former SAG Board Member  
9354 Hillrose St. Shadow Hills, Ca. 91040  
(818)353-8777 <[triplep.ranch@verizon.net](mailto:triplep.ranch@verizon.net)>

**Subject:** Remarks to the Federal Communications Committee during  
Its Los Angeles hearing, Monday 3 October 2006

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**Gentlemen of the FCC: I'm Mark Reed. We meet in 2004, when I spoke at your**

**Rapid City hearing – and again last August here in Los Angeles.**

**Both times, I summarized my remarks with the theme, “Control Information and  
You Control The Nation”.**

**Because, when you allow fewer and fewer people to control more and more media,  
information control will always follow.**

**And historically, tyranny always – always – follows information control.**

**Think back – remember the year the FCC was born.**

**It was 1934. President Franklin D. Roosevelt developed the FCC from the old Radio  
Commission. President Roosevelt was acutely aware of the threat of controlled  
information because that very same year Hitler's Propaganda Ministry was  
controlling information to control a nation – Germany.**

**A nation controlled by controlled information is the core issue in this debate and  
that's not even being discussed.**

**Even the entertainment industry doesn't get it. In 2002, the entertainment guilds  
presented a lengthy document to you that didn't oppose media control by  
consolidation, but only begged for a bigger piece of the consolidation pie.**

**The core issue is preservation of diverse ideas, of inquiry, debate and delivery of  
honest information.**

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**This is the core of our liberty. If you put media control in the hands of a select few people you will destroy liberty in America just as the Nazis did in Germany in 1934.**

**That makes your FCC mandate obvious.**

**Preserve diverse ownership of American broadcast media.**

**It is a matter of preserving liberty.**

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FRIENDS...

Federal Communications Commission  
Office of the Secretary

Here is an announcement of the FCC meeting.  
(with the approach of the Cable TV workers.)

PLEASE GO TO THIS MEETING - VOICE YOUR OPINION - HELP PRESERVE, EXPAND and ASSURE THE FUNDING of PUBLIC ACCESS CABLE TV. (14 local stations, City-controlled Channel 35 and City-supported Channel 36)

I will go to this meeting - F.C.C. - TUESDAY afternoon - OCTOBER 3, 2006 - and would be glad to carry YOUR COMMENTS (in case, you won't be there).

These are my thoughts. Please respond with YOUR VIEWS and SUGGESTIONS.

1. Now that most of the 14 Cable TV studios of the City of Los Angeles are owned by one company (Time-Warner) there is much less competition in this area.
2. A merger between Time-Warner and Viacom is in process to permit this communications giants to market cell-phone, Cable TV & Internet communications as a profit-making package to the public.
3. Public Access Cable TV - which is the opportunity of YOUR NEIGHBORHOOD COUNCIL, community advocates, church groups, start-up entertainment groups, etc. to produce and present TV programs - only exists because of the governmental (in our case, the City government of Los Angeles) requirements.
4. The franchise between the Public Access TV stations and the City of Los Angeles expired several years ago and City "politics" has not "worked" to update and renew that contract.
5. Public Access TV is a "pro bono" (no profit but some expense) activity which the Cable TV companies are required by law to continue. It is understandable that these "for profit" companies would rather eliminate this drain on their profits but some in the Cable TV industry recognize their responsibility to the public and support continuation and expansion of Public Access to encourage new "blood" into the industry and foster true First Amendment-guaranteed public comment.
6. Public Access TV facilities are old, with decaying 20-30 year old (analog) equipment which is becoming more and more difficult to maintain and repair. This is the digital equipment age. Digital cameras, recorders and projectors make it simple, cheap and easy to record, edit and present all kinds of Public Access Programs.

A new, modern policy which supports the continued activities of the Public Access (P.E.G. = Politics, Education & Government) programming is needed. The F.C.C. should consider and, we hope, continue and expand policies which support Public Access TV activities and the ability of the "little guy" to get a start and have a say in our nation's communications systems.

Daniel Wiseman  
Producer of Public Access Programs for the  
YOUR NEIGHBORHOOD COUNCIL Programs  
(at the Chatsworth, Van Nuys, Eagle Rock, Hollywood,  
East Los Angeles and West Los Angeles Studios)

Note: forwarded message attached.

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Friends:

This message regarding the F.C.C. hearings (tomorrow) is of importance to all of us who are producing and working on PUBLIC ACCESS CABLE TV projects and studios.

I have added the PUBLIC ACCESS CABLE TV concerns to this list of opinions.

Please send me your thoughts or be at these hearings to express yourself, directly.

Daniel Wiseman  
Founder, Your Neighborhood Council  
(producer of PUBLIC ACCESS CABLE TV programs)

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To: [dfala@yahoogroups.com](mailto:dfala@yahoogroups.com)

Federal Communications Commission  
Office of the Secretary

From: "Lisa Pease" <lpease@gte.net>

Date: Sun, 01 Oct 2006 11:36:28 -0700

Subject: [DFALA] ACTION ALERT: Tell the FCC your concerns re the media

The FCC is conducting formal hearings on the subject of media ownership. They were in town recently for an informal meeting, and no doubt due to the interest displayed, have decided to take testimony from the public on this matter.

This is your chance to ask for three things:

1) Ask the FCC to make stricter laws limiting how many media outlets one company can own. Right now six companies own nearly all the media in this country. See the chart at <http://www.mediachannel.org/ownership/chart.shtml>. (And see Take Back the Media - <http://www.takebackthemediacom/owners.html> - for much more information. )

2) Ask for support for continued PUBLIC ACCESS Cable TV services. Ask that the equipment be modernized (currently they use decaying 20 - 30 year old "analog" cameras and editors and have little or no "digital" equipment. Ask that the staff be expanded and trained to assist fledgling producers in learning and producing appropriate presentations (neighborhood council reports and commentary, community activities, faith-based presentations, public information programs, "new" entertainment shows, etc., etc., etc.) Background: "With the assumption of the 14 Public Access Studios in Los Angeles by Time-Warner and Time-Warner's negotiations with Voice-Over-Internet and Cellphone-Internet companies their may be a move to decrease or eliminate all Public Access. This would deny producers of "new" and "local interest" and "innovative" programs to learn their trades and deliver their messages to the public.

The Cable TV companies (Time-Warner included) are "for-profit" companies and it is understandable that they do not want the added expenses associated with the "no-income" Public Access activities. The creation and continuation of Public Access Cable TV has occurred because Federal and local governments have required these services as part of the ability (franchise) to do (commercial) business. Local and nationwide advocates of free and fair speech must convince the government agencies, including the F.C.C., to continue and solidify Public Access Cable TV services. (added by Daniel Wiseman)

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**TESTIMONY BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
PUBLIC HEARING ON MEDIA OWNERSHIP**

**Los Angeles, CA**

**by**

**TIMOTHY F. WINTER**

**Executive Director, Parents Television Council  
October 3, 2006**

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**OCT - 6 2006**

**Federal Communications Commission  
Office of the Secretary**

Good day to you, Chairman Martin, and good day to you, Commissioners Adelstein, Copps, McDowell and Tate. Welcome to Los Angeles. It is an honor and a pleasure to have you all here today as we work together to explore the myriad issues surrounding Media Ownership.

My name is Tim Winter and I am the executive director of the Parents Television Council; and as the Agenda accurately states, I will be assuming the title of President on January 1<sup>st</sup>. Headquartered here in Los Angeles, the PTC is a non-partisan, non-profit organization dedicated to protecting children and families from graphic sex, violence and profanity in entertainment.

Looking at the other panelists here today, I feel a bit like a skunk at a picnic. Producers. Writers. Actors. Directors. Recording Artists. And the Parents Television Council?!?! What's wrong with this picture?!

The answer is: nothing is wrong with this picture. All of us are here today to express our thoughts and concerns about the effects of media consolidation, particularly as it relates to programming. Certainly we bring differing perspectives and points of view, but I believe there is far more common ground than what one might suspect.

Over the past decade, all of us here on this panel have witnessed – first-hand – the harmful effects of media consolidation on programming. My perspective is as a parent and as an advocate for more and better family programming. And from where I sit, media consolidation has dealt a devastating blow.

Los Angeles is one of the world's great communities. Indeed, it has one of the most diverse populations of any city in world, having no ethnic or racial majority and where an astounding 224 different languages are spoken. And speaking of population, if the County of Los Angeles were its own US state, it would be the 8<sup>th</sup> largest with its 10-plus million residents.

But if you were to use Los Angeles as a case study for the effects of Media Consolidation – taking the lessons learned here over the past decade and extending the likely effects across our nation and into the future – the results would show a dismal outlook for a

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robust media and communications policy. Before I provide details to support this opinion, *please allow me a moment first to provide some overall context.*

As we sit here in this room today, the air around us is saturated with communication signals. There are low frequency waves and high frequency waves. Television signals. Radio signals. Cell phone signals. And so many other electronic signals that they would be nearly impossible to count. But regardless of their source and regardless of their intended destination, the airwaves through which those signals travel belong to all of us here in this room. The airwaves are public property. And as such, Congress gave the FCC the authority to use this public property in order to best serve the public interest. I heard Commissioner Copps testify before a Senate hearing a few years ago in Washington, and he told the Senators in that hearing room that, by his count, the term “public interest” appeared no less than 112 times in the original congressional legislation establishing the role of this Commission. But by my count, the terms “corporate interest” or “broadcaster’s return on investment” or “earnings per share” or “profit margin” never once appeared. I have publicly stated a number of times that “public interest” and “corporate interest” are not mutually exclusive. But sometimes the two do not see eye-to-eye, and when they don’t, it is the public interest which must prevail.

I am still relatively new to the field of public policy, having spent all but three of my 25 year career in the private sector, the vast majority of which was in the broadcasting and cable industry. I love the industry with every fiber of my being. It can be a good and honorable business, and it is an extremely profitable business with profit margins that are unheard of in most other industry sectors. But with immense pressure from Wall Street, it is Main Street – the public interest – which has drawn the short end of the stick with media ownership consolidation.

But let’s begin with 90-plus percent of parents who feel there is too much sex and violence on TV, half of whom allow a TV set in their child’s bedroom. But parents complain that Hollywood is out of touch with the wants and needs of the mainstream. Hollywood insists that they are only providing what the network executives want, and in fact independent producers have told us privately that they want to produce more family material but the networks won’t let them. Network executives point to the advertisers’ demand for edgy programming that will hit a desired demographic. But advertisers have told us repeatedly that if there were good, quality, family programs that they would be quick to support them with their advertising dollars.

So it seems we’re all to blame, at least at some level. But in bringing the conversation back to the purpose of this particular hearing, there is one common influence on all of us: Fewer people are making programming decisions. Even in our 500-channel universe, a hand-full of corporations control most of what we see on television.

The principle upon which I base my testimony today, and the principle upon which I implore the Commission to base its Media Ownership decisions, is simply this: Have the corporate interests behaved in a manner that truly serves the public interest, so that they



should be given the additional public trust to hold even more broadcast licenses than they do today?

My answer to this question is an emphatic NO, they have not. In fact the major media conglomerates which now hold so many broadcast licenses have not only failed to act in the public interest, they have repeatedly acted with complete and utter disregard for the public interest. Many have acted, and continue to act, in such a manner as to be denied any additional licenses. And some have acted, and continue to act, in such a manner as to warrant the suspension or revocation of their existing licenses. Remember, Congress gave you the ability to take a broadcast license away from a licensee if they did not abide by the terms of the license. And the Supreme Court has repeatedly upheld the congressional intent behind the licensing process.

Perhaps just as important, the public would support your decision to revoke a broadcast license. The PTC recently engaged the independent and highly respected research firm, Zogby International, to ask a few questions in their weekly national opinion poll. We asked the following specific question: *Do you agree or disagree that television stations that repeatedly ignore the broadcast decency law should lose their licenses to broadcast over the public airwaves?* An astounding 72% of Americans surveyed agreed that yes, the broadcaster should lose its license. Let me be absolutely precise on this point: This was a Zogby poll; a statistically significant, national omnibus poll of 1,000 Americans. We've seen special interest groups of all stripes misuse or abuse survey data to achieve a desired outcome. But this was not a PTC poll or a question asked of PTC members; nor was it targeted to any sub-section of the American public or phrased in such a way as to yield a particular answer. Even Zogby called the results "overwhelming, as more than three-fifths of people in just about every sub-group agree that these stations should lose their licenses to broadcast over public airwaves."

In its landmark *Pacifica* opinion which upheld the broadcast decency regulations, the Supreme Court used a powerful but precise term in describing the public's access to material broadcast over the public airwaves: "Uniquely pervasive." Even though that court ruling happened nearly three decades ago, the term "uniquely pervasive" still applies today. How pervasive is broadcast television? Last year, the most-watched TV programs were all on broadcast television. In fact 485 out of the top-rated 495 programs were aired on broadcast TV rather than cable. And according to Nielsen data, last week each of the top-ten programs on broadcast TV garnered more than 15 million viewers. But the highest rated program on cable had only about 5 million viewers. This shows just how pervasive the broadcast medium continues to be, even with the documented growth in cable network viewing.

So how, exactly, are the broadcast licensees behaving, and in particular, are the media conglomerates using their broadcast licenses to serve the public interest?

Since the Commission last dealt with the issue of media ownership three years ago, millions of Americans have filed formal complaints about broadcast indecency